



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Houston Metro Ortho Spine

Respondent Name

Safety National Casualty Corp

MFDR Tracking Number

M4-15-2576-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

April 15, 2015

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Because authorization was provided for the medically necessary services to the patient, it is our position the Hospital is entitled to reimbursement."

Amount in Dispute: \$60,300.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "This bill is being re-audited for proper payment. Carrier will supplement."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 2, 2014	63047, Q4145	\$60,300.00	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.402 sets out the reimbursement guidelines for services in an Ambulatory Surgical Center.
3. Neither party provided an explanation of benefits related to the dates of service in dispute.

Issues

1. Was the claim received and adjudicated by the carrier?
2. What is the applicable rule pertaining to services in dispute?
3. Are the services in dispute allowed in the setting where the procedure was performed?
4. Are the insurance carrier's reasons for denial or reduction of payment supported?

Findings

1. Review of the submitted documentation finds that neither the requestor or the respondent included copies of EOBs for the disputed date of service however, the requestor states, "the bill was denied because the services are not allowed under Medicare's ASC guidelines." The respondent states, "This bill is being re-audited for proper payment." As both the requestor and respondent submitted position statements that indicate the receipt of the claim and adjudication was completed, the Division will review the services in dispute per applicable rules and fee guidelines.
2. This dispute relates to services performed in an Ambulatory Surgical Center. 28 Texas Administrative Code §134.402 (f) states in pertinent part,

The reimbursement calculation used for establishing the MAR shall be the Medicare ASC reimbursement amount determined by applying the most recently adopted and effective Medicare Payment System Policies for Services Furnished in Ambulatory Surgical Centers and Outpatient Prospective Payment System reimbursement formula and factors as published annually in the Federal Register. Reimbursement shall be based on the fully implemented payment amount as in ADDENDUM AA, ASC COVERED SURGICAL PROCEDURES FOR CY 2008, published in the November 27, 2007 publication of the Federal Register, or its successor. The following minimal modifications apply:

(1) Reimbursement for non-device intensive procedures shall be:

(A) The Medicare ASC facility reimbursement amount multiplied by 235 percent; or

(B) if an ASC facility or surgical implant provider requests separate reimbursement for an implantable, reimbursement for the non-device intensive procedure shall be the sum of:

- (i) the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or \$1,000 per billed item add-on, whichever is less, but not to exceed \$2,000 in add-on's per admission; and
- (ii) the Medicare ASC facility reimbursement amount multiplied by 153 percent

The Medicare ASC reimbursement is discussed in the Medicare Claims Processing Manual, Chapter 14 - Ambulatory Surgical Centers, Section 20 - List of Covered Ambulatory Surgical Center Procedures states, "The complete lists of ASC covered surgical procedures and ASC covered ancillary services, the applicable payment indicators, payment rates for each covered surgical procedure and ancillary service before adjustments for regional wage variations, the wage adjusted payment rates, and wage indices are available on the CMS Web site at: <http://cms.hhs.gov/Medicare/Medicare-Fee-for-Service-Payment/ASCPayment/ASC-Regulations-and-Notices.html>." Section 20.1 states, "The ASC list of covered procedures merely indicates procedures which are covered and paid for if performed in the ASC setting. It does not require the covered surgical procedures to be performed only in ASCs. The decision regarding the most appropriate care setting for a given surgical procedure is made by the physician based on the beneficiary's individual clinical needs and preferences. Also, all the general coverage rules requiring that any procedure be reasonable and necessary for the beneficiary are applicable to ASC services in the same manner as all other covered services."

The CMS, ASC web page, <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ASCPayment/index.html> contains the applicable addendums described as, "Ambulatory Surgical Center (ASC) Approved HCPCS Codes and Payment Rates. These files contain the procedure

codes which may be performed in an ASC under the Medicare program as well as the ASC payment group assigned to each of the procedure codes. The ASC payment group determines the amount that Medicare pays for facility services furnished in connection with a covered procedure.”

Review of ADDENDUM AA - - Final ASC Covered Surgical Procedures for CY 2014 (Including Surgical Procedures for Which Payment is Packaged) to Reflect the Extension of Current Medicare Physician Fee Schedule Payment Rates Created by the Protecting Access to Medicare Act of 2014 finds no listing for service in dispute code 63047.

Review of ADDENDUM BB - Final ASC Covered Ancillary Services Integral to Covered Surgical Procedures for CY 2014 (Including Ancillary Services for Which Payment is Packaged) to Reflect the Extension of Current Medicare Physician Fee Schedule Payment Rates Created by the Protecting Access to Medicare Act of 2014, at the above web site for 2014 finds;

- a. Q4145 – July 2014 Payment Indicator N1
- b. N1 – Packaged service/item; no separate payment made.

Review of ADDENDUM EE - Surgical Procedures Excluded from Payment in ASCs for CY 2014, at the above web site finds;

- a. 63047 – Removal of spinal lamina

The disputed code 63047 was found to be excluded. The applicable rule is discussed below.

3. 28 Texas Administrative Code §134.402 (i) states,
- (i) If Medicare prohibits a service from being performed in an ASC setting, the insurance carrier, health care provider, and ASC may agree, on a voluntary basis, to an ASC setting as follows:
 - (1) The agreement may occur before, or during, preauthorization.
 - (2) A preauthorization request may be submitted for an ASC facility setting only if an agreement has already been reached and a copy of the signed agreement is filed as a part of the preauthorization request.
 - (3) The agreement between the insurance carrier and the ASC must be in writing, in clearly stated terms, and include:
 - (A) the reimbursement amount;
 - (B) any other provisions of the agreement; and (C) names, titles and signatures of both parties with dates.
 - (4) Copies of the agreement are to be kept by both parties. This agreement does not constitute a voluntary network established in accordance with Labor Code §413.011(d-1).
 - (5) Upon request of the Division, the agreement information shall be submitted in the form and manner prescribed by the Division.”

The respondent stated, “...the Hospital attempted to contact the adjuster to possibly reach an agreement and discuss reimbursement but did not receive a response.” The requirements of Rule 134.402(i)(3)(a) were not met as no agreement was reached. Therefore no additional payment can be recommended.

4. The disputed service Q4145 has a status indicator of N1 which states, “Packaged service/item; no separate payment made.” 28 Texas Administrative Code §134.402 (d) requires that, “For coding, billing, and reporting, of facility services covered in this rule, Texas workers' compensation system participants shall apply the Medicare payment policies in effect on the date a service is provided with any additions or exceptions specified in this section...,” Based on this status indicator payment cannot be recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____	_____	September 22, 2015
Signature	Medical Fee Dispute Resolution Officer	Date

_____	_____	September 22, 2015
Signature	Medical Fee Dispute Resolution Manager	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.